

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 ) MUR: 5356  
 Bob Franks for U.S. Senate, Inc. )  
 and Brad Muniz, as Treasurer )

**CONCILIATION AGREEMENT**

Matter Under Review ("MUR") 5356 was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Bob Franks for U.S. Senate, Inc. and Brad Muniz, as Treasurer, ("Respondents") violated 2 U.S.C. § 441a(f), 2 U.S.C. § 434(a)(6), 11 C.F.R. § 110.9(a), and 11 C.F.R. § 104.5(f).<sup>1</sup>

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation prior to a finding of probable cause to believe that one or more violations occurred, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered into pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

<sup>1</sup> All of the facts recounted in this agreement occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended (the "Act"), herein are to the Act as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA. All statements of the law in this agreement that are written in the present tense shall be construed to be in either the present or the past tense, as necessary, depending on whether the statement would be modified by the impact of BCRA or the regulations thereunder.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Bob Franks for U.S. Senate, Inc. ("Committee") is a principal campaign committee within the meaning of 2 U.S.C. § 431(5) and has registered with the Commission as a principal campaign committee pursuant to

11 C.F.R. § 102.1(a).

2. Brad Muniz is currently the treasurer of the Committee.

3. The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A);

11 C.F.R. § 110.1(b)(1).

4. The Act provides that no political committee shall knowingly accept any contribution in violation of the contributions limitations in the Act. 2 U.S.C. § 441a(f); 11 C.F.R. § 110.9(a).

5. The Act provides that, if any contribution of \$1,000 or more is received by an authorized committee of a candidate after the 20<sup>th</sup> day, but more than 48 hours, before 12:01 a.m. of the day of an election, the principal campaign committee of that candidate shall notify the Commission, the Secretary of the Senate and the Secretary of State, as appropriate, within 48 hours after receipt of the contribution. 2 U.S.C. § 434(a)(6); 11 C.F.R. § 104.5(f). The Act further provides that the notification must include the name of the candidate, the office

sought by the candidate, the name of the contributor, the amount of the contribution and the date that the contribution was received. *Id.*

V. Respondents violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.9(a) by accepting 362 contributions totaling \$347,043 in excess of the contribution limitations set forth in the Act for the 2000 primary election and the 2000 general election. Respondents will cease and desist from violating 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.9(a).

VI. Respondents violated 2 U.S.C. § 434(a)(6)(A) and 11 C.F.R. § 104.5(f) by failing to file notifications for 57 contributions totaling \$57,000 that were received between the 20<sup>th</sup> and 2<sup>nd</sup> day prior to the 2000 primary election or the 2000 general election and by failing to disclose the amount of the contributions on notifications for 11 contributions totaling \$11,000 that were received between the 20<sup>th</sup> and 2<sup>nd</sup> day prior to the 2000 primary election or the 2000 general election. Respondents will cease and desist from violating 2 U.S.C. § 434(a)(6)(A) and 11 C.F.R. § 104.5(f).

VII. The Commission has determined that the appropriate civil penalty for Respondents' violations is Sixty-Nine Thousand Dollars (\$69,000), pursuant to § 437g(a)(5)(A). Robert D. Franks has negotiated to pay the civil penalty to the Commission for Respondents' violations. Such penalty shall be paid in five (5) installments as follows:

1. An initial payment of Twenty-Three Thousand Dollars (\$23,000) is due no more than thirty (30) days from the date this agreement becomes effective;

2. Thereafter, four consecutive monthly installments of Eleven Thousand Five Hundred Dollars (\$11,500) shall be paid within thirty (30) days of the previous installment;
3. In the event that any installment is not received by the Commission on or before the date it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire unpaid balance of the civil penalty to become due upon ten (10) days written notice to Respondents. Failure by the Commission to accelerate the payments with regard to any overdue payment(s) shall not be construed as a waiver of any kind.

VIII. The Commission, upon request by anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been or is being violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed it and the Commission has approved it.

X. Respondents shall have no more than thirty (30) days from the date that this agreement becomes effective to comply with and implement the requirements contained herein and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement among the parties on the matters raised herein, and no other statement, promise or agreement, either

written or oral, made by any party to this agreement or by agents of any party to this agreement, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton  
General Counsel

By: *Rhonda J. Vosdingh*  
~~Gregory R. Baker~~  
~~Acting Associate General Counsel~~

12/4/03  
Date

Rhonda J. Vosdingh  
Associate General Counsel for Enforcement  
FOR THE RESPONDENTS:

*William E. Baroni, Jr.*  
William E. Baroni, Jr.  
Attorney for Respondents

11/18/03  
Date

*Robert D. Franks*  
Robert D. Franks

11/17/03  
Date